Abstract Proceedings of the Travancore Legislative Council.

The Council met in the Dewan's room, Public Offices, at 12 noon, on Thursday the 21st March 1918/8th Meenam 1093.

Present.

DEWAN BAHADUR M. KRISHNAN NAIR ESQ., B. A & B L.,
DEWAN.....*Presiding.*

V. Subba Aiyar Esq., B. A. & B. L.
N. Subrahmanya Aiyar Esq., M. A.
R. Mahadeva Aiyar Esq., B. A.
Rao Bahadur K. V. Rengaswami Aiyangar Esq., M. A.
N. Raman Pillai Esq., B. A.
John Kuriyan Esq., B. A., B. C. E.
I. C. Chacko Esq., B. A., B. Sc.
N. Raja Ram Rao Esq., B. A.
Paul Daniel Esq., M. A. & L. T.
A. Govinda Menon Esq., B. A.
M. Subrahmanya Pillai Esq.
K. A. Krishna Aiyangar Esq., B. A. & B. L.
R. Gopala Pillai Esq., B. A. & B. L.

K. Narayanan Pandalay Esq., B. A. & B. L.....*Secretary.*

The Secretary reported that Messrs N. Raja Ram Rao, K. A. Krishna Aiyangar and R. Gopala Pillai, who had been appointed Members of the Council, took their seats in Council that day.

THE MOTOR VEHICLES REGULATION AMENDMENT BILL.

Mr. Subba Aiyar, in introducing the Motor Vehicles Regulation Amendment Bill, spoke as follows:—

"Sir,

I beg to introduce a Bill to amend the Motor Vehicles Regulation, VII of 1087, as amended by Regulation V of 1090. Though the existing Regulation was passed only a few years ago, the practical working of it has shown that there are some defects in it. The Government, under the power vested in them by the Regulation, passed rules, under one of which the driver in charge of a motor car should, on the happening of an accident, give information to the nearest Police Station. A prosecution was made for breach of the rule, and it was recently held by the High Court that such a rule is *ultra vires*. There are also other defects in the Regulation. For instance, though the driver is not allowed to lend or hand over his license to anybody else, there is no prohibition against the owner of a motor vehicle allowing the use of his licen[illegible] by another. Provision has therefore been made in the Bill for the purpose. Besides, in the ex[illegible]ing Regulation, there is no provision for regulating the use of motor buses in Travancore t[illegible]ken outside the State, as also of those outside Travancore taken into the State. In British India, each province had its own Act, and it was thought that there must be uniformity of practice and rules regulating the use of motor cars. Therefore, the Imperial Act was passed in 1914, consolidating all the Provincial Acts. Our Regulation was passed on the lines of the Madras Act, and that Act has been repealed. The Regulation itself consists of only 14 Sections. Instead of putting in an amendment to each Section, it is thought desirable to re-draft the Bill on the lines of the Imperial Act, VIII of 1914. It is with that purpose that the present Bill has been prepared. I beg to move that the principle of the Bill be affirmed."

Seconded by Mr. Rengaswami Aiyangar.

Mr. Krishna Aiyangar:—

"Sir,

Subject to an important reservation to which I shall presently refer, I do not find any serious objection to affirm the principle of the Bill. Sub section (2) of Section 4 of the draft Bill enacts that no owner or person in charge of a motor vehicle shall allow any person under the age of 21 years to drive the same in any public place, and in the event of a contravention of sub-section (1), the Court may presume that the motor vehicle was driven with the consent of the owner or person in charge. Under Section 17, a contravention of this provision is

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declared an offence. The presumption of guilty knowledge raised in the sub-section is opposed to the ordinary principles of Criminal Law. Under the existing Regulation, the prosecution will have to establish guilty knowledge before a conviction is secured. No reason is alleged by the learned Mover for introducing this apparently indefensible provision in the draft Bill. Possibly, it may be suggested in support of this position that it may be difficult to secure the conviction unless this presumption is drawn in favour of the prosecution. This difficulty will not be peculiar to a prosecution under this Regulation. I am aware that in recent times in some fiscal enactments a similar presumption is raised in support of the prosecution. The conservation of State finances is a matter of general importance and a departure from the general Criminal Law in fiscal matters may be perhaps justifiable on grounds of public policy. There is no justification for extending this rule to a prosecution under the Motor Vehicles Regulation. With this reservation, I submit that the principle of the Bill may be affirmed."

Mr. Govinda Menon:—

"I fully agree with Mr. Krishna Aiyangar in what he has said."

Mr. Gopala Pillai:—

"While affirming the principle of the Bill, I am at one with Mr. Krishna Aiyangar in the observation that he has made in regard to the burden of proof being shifted on to the defence."

Mr. Subba Aiyar:—

"I do not believe that there is any objectionable principle sought to be introduced. If a motor vehicle belonging to any particular individual is found to be in the possession or under the control of another individual, the presumption is that the owner lent it or that the latter got it with the permission of the owner. The Court may reasonably presume in such cases that the person who was using the motor vehicle obtained it by legitimate means, *viz.*, with the sanction of the owner. I think that this is a matter which can be settled by the Select Committee and that it does not affect the principle of the Bill. I therefore beg to move that the principle be affirmed."

Mr. Subba Aiyar's motion was carried.

Mr. Subba Aiyar then moved that the Bill be referred to a Select Committee consisting of Messrs. Chacko, Gopala Pillai and the Mover to report within two months.

Seconded by Mr. Rengaswami Aiyangar.

Carried.

THE CHITTIES BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Chitties Bill, and moved that the report and the Bill be taken up for consideration at once.

Seconded by Mr. Mahadeva Aiyar.

Carried.

SECTION 2.

Mr. Govinda Menon moved that Section 2 be recast as follows:—

"Unless otherwise expressly stated, the provisions of this Regulation shall apply to all chitties existing at the commencement of this Regulation", and in moving the amendment, he said:—

"Sir,

I have first to make a request in connection with this Bill, in regard to which, I do not think the Government have any interest to have the provisions in any particular manner. My request is that you will allow all the Members to give free play to their opinion. Proceeding to the subject, I beg to say that the object of my amendment is to insert a provision which will give retrospective effect to the law, *i. e.*, to apply the law to certain classes of existing chitties. I have set forth, in detail, in my dissenting memorandum, the reasons which have induced me to put forth this amendment. First of all, there are hundreds of chitties existing now, which, owing to the defective ways in which they are conducted, have given rise to numerous litigations. In fact, more than something like 30 per cent. of the cases in Courts have some connection with chitty transactions. It is all due to the want of effective control over the conduct of those chitties. Of course, when we make a Regulation, it is not common to give retrospective effect to the provisions of that Regulation. But, the present legislation, except in some cases, such as, registration, execution of security bonds and investment of the prize amount, embodies the principles of common law, if I may call it so, observed throughout the country by all foremen who conduct chitties in a regular manner. Many people have started chitties after the introduction of this Bill, with a view to avoid any restriction that may be placed upon them by this legislation. I say that this class of people should not be allowed to avoid the provisions of this law. I therefore suggest the inclusion in this Bill of all chitties started after the 1st Chingom 1092, so that the provisions of this Bill may bind them. There are again other classes of chitties which have yet a period ranging from six up to twenty and twenty five years to run. My question is, are these chitties to be outside the pale of this legislation? In my view, those chitties which have yet to run over a period of six years should also be included in the provisions of this Bill."

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